

MEMORANDUM ENDORSED

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August 11, 2020

BY ECF

Hon. Gregory H. Woods
United States District Court
Southern District of New York
New York, New York 10007

Re: United States v Byron Barber
Ind #: 19 Cr. 00451 (GHW)

Dear Judge Woods:

Without objection of the government, by AUSA Jacob Gutwillig, Byron Barber respectfully asks that the sentencing scheduled for August 25, 2020 in this matter be adjourned to a date in mid-October. The reasons for this request continue to be the Cares Act requirement that felony sentencing under Rule 32 cannot be conducted remotely absent a Court finding that "the proceeding cannot be further delayed without serious harm to the interests of justice." It is respectfully submitted that no such finding is possible on the record of this case.

Additionally, in the midst of the continuing pandemic, returning Mr. Barber to prison -- should that be the Court's decision -- would be antithetical to the reasons underlying the Court's bail decision in this matter, as medical circumstances rendering it unduly dangerous for Mr. Barber to reside in prison have not abated since release conditions were put in place. That applies to a lesser degree to even conducting an in-person sentencing at this time. I am informed that Mr. Barber is in compliance with his release conditions, and doing well at home.

Finally, I am seeking to obtain records from medical and counseling providers which are relevant to the core § 3553 factors which will be important to Mr. Barber's sentencing case.

Thank you very much for your attention to this matter.

Respectfully,

Robert A. Soloway

Robert A. Soloway

cc: AUSA Jacob Gutwillig
(By ECF)
RAS:sc

Application granted. At the outset, the sentencing proceeding scheduled for August 25, 2020 was scheduled to take place in person; the Court expected to conduct it in person. Therefore, the argument that the sentencing could not be conducted under the authority of the CARES Act has no weight. Nonetheless, the sentencing is adjourned to October 19, 2020 at 4:00 p.m. The defendant's sentencing submissions are due no later than October 5, 2020; the Government's sentencing submissions are due no later than October 12, 2020. The parties should not expect further extensions of the sentencing proceeding.

SO ORDERED

August 11, 2020




GREGORY H. WOODS
United States District Judge